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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

RUSSELL BRADBERRY, individually and on behalf of a class of similarly situated individuals,	)	Case No. C 06 6567 CW
)	
Plaintiff,	)	DECLARATION OF BRYAN G.
	)	KOLTON IN SUPPORT OF
v.	)	PLAINTIFF'S MEMORANDUM IN
	)	OPPOSITION TO DEFENDANT'S
T-MOBILE USA, INC., a Delaware corporation	)	MOTION FOR JOINDER, OR IN
	)	THE ALTERNATIVE,
Defendant.	)	CONSOLIDATION
)	
	)	The Honorable Claudia Wilken
)	
	)	Hearing Date: Nov. 29, 2007
	)	Time: 2:00 p.m.
	)	Courtroom 2, 4 th Flr.

1 RUSSELL BRADBERRY, individually and on) Case No.C-07-5298 PJH
2 behalf of a class of similarly situated)
3 individuals,)
4)
5 Plaintiff,)
6)
7 v.) The Honorable Phyllis J. Hamilton
8)
9 MBLOX, INC., a Delaware corporation,)
10)
11 Defendant.)
12)
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28) **CLASS ACTION**

9 I, Bryan G. Kolton, an attorney for Plaintiff Russell Bradberry in this matter, state as
10 follows:

- 11 1. I have personal knowledge of the facts set forth herein.
- 12 2. I am one of the attorneys representing Plaintiff Russell Bradberry in
13 *Bradberry v. T-Mobile*, No. C-06-6567 (the “T-Mobile case”) and in *Bradberry v. mBlox*,
14 *Inc.*, No. C-07-5298 (the “mBlox case”).
- 15 3. The complaint in the T-Mobile case was filed on October 20, 2006 and the
16 amended complaint was filed on February 23, 2007.
- 17 4. The parties in the T-Mobile case filed a joint case management statement on
18 March 23, 2007, participated in an initial case management conference on March 30, 2007
19 and each filed proposed case management schedules on April 27, 2007.
- 20 5. The Court referred the T-Mobile case to early neutral evaluation (“ENE”) on
21 March 30, 2007 and the parties in the T-Mobile case completed the ENE on August 17, 2007.
- 22 6. On May 7, 2007 the Court in the T-Mobile case entered its case management
23 scheduling order. On August 22, 2007 the Court in the T-Mobile case entered an amended
24 case management scheduling order.

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28 **DECLARATION OF BRYAN G. KOLTON IN SUPPORT OF PLAINTIFF’S MEMORANDUM IN
OPPOSITION TO DEFENDANT’S MOTION FOR JOINDER, OR IN THE ALTERNATIVE, FOR
JOINDER, Case Nos. C-06-6567 CW; C-07-5298 PJH**

1 7. On August 31, 2007 T-Mobile filed a motion seeking to dismiss Count V of
2 Plaintiff's amended complaint. The motion will be fully briefed by December 7, 2007 and is
3 set to be heard on December 20, 2007.

4 8. On September 6, 2007 T-Mobile filed its answer to the remainder of
5 Plaintiff's amended complaint.

6 9. The parties in the T-Mobile case spent weeks negotiating an appropriate
7 agreed protective order which the Court in the T-Mobile case entered on September 12, 2007.

8 10. Rule 26 disclosures have occurred in the T-Mobile case. Discovery in the T-
9 Mobile case got underway in June of this year. Documents have been produced pursuant to
10 Rule 34 requests, there has been some third-party discovery with more to follow, and
11 interrogatories and requests to admit have been served and responded to.

12 11. A class certification motion and memorandum were due to be filed in the T-
13 Mobile case in late September when the parties agreed to a brief stay so that they could
14 pursue mediation. A mediation is currently scheduled in the T-Mobile case for November
15 20, and if a settlement is not reached, class certification papers will be filed on November 30,
16 2007. The hearing on class certification in T-Mobile is scheduled to take place on February
17 7, 2008. Attached hereto as Exhibit A is a true and correct copy of the Court's October 30,
18 2007 Order in the T-Mobile case, referencing the foregoing dates.

19 12. The complaint in the mBlox case was filed in the Superior Court of Clara
20 County on September 13, 2007 and removed by mBlox to this Court on October 17, 2007.

21 13. mBlox's first filing in federal court after filing its notice of removal was a
22 stipulation to extend the time to respond to the complaint until December 17, 2007. Attached
23 hereto as Exhibit B is a true and correct copy of the said Stipulation.

